

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 13. STATE BOARD OF DEPOSIT

#### PREAMBLE

1. **Sections Affected**

R2-13-101	<b><u>Rulemaking Action</u></b>
R2-13-102	New Section
R2-13-103	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 35-311  
Implementing statute: A.R.S. § 35-315(C)
3. **The effective date for the rules.**  
July 12, 1996
4. **A list of all previous notices that appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening:  
1 A.A.R. 2339, November 13, 1995  
  
Notice of Proposed Rulemaking:  
1 A.A.R. 2334, November 13, 1995  
  
Notice of Public Hearing on Proposed Rulemaking:  
2 A.A.R. 1308, March 22, 1996
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Richard J. Petrenka, Deputy State Treasurer  
  
Address: State Board of Deposit  
1700 West Washington  
Phoenix, Arizona 85007  
  
Telephone: (602) 542-1448  
  
Fax: (602) 258-6627
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
A.R.S. § 35-315(C) allows for payment of servicing bank bid costs from general fund interest earnings according to rules promulgated by the State Board of Deposit. The rules fulfill that need by establishing procedures for receipt and deposit of general fund interest earnings and invoicing from, and payment to, the servicing bank on a monthly basis.  
  
This procedure will allow the treasurer to invest general fund dollars for the highest rate available without regard to leaving a specific level of compensating balance at the bank.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
8. **The summary of the economic, small business, and consumer impact:**  
It is anticipated that general fund earnings will be from 10 to 75 basis points (hundredths of a percent) greater than would be earned through a compensating bank balance.  
  
No impact is anticipated for small business in the state.
9. **A description of the changes between the proposed rules, and final rules:**  
Not applicable.

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10. A summary of the principal comments and the agency response to them:  
There were no principal comments.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
12. Incorporations by reference and their location in the rules:  
None.
13. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency and the adoption of these final rules:  
No.
14. The full text of the rule:

TITLE 2. ADMINISTRATION

CHAPTER 13. STATE BOARD OF DEPOSIT

ARTICLE 1. GENERAL PROVISIONS

pursuant to A.R.S. § 35-315.

Section

- R2-13-101. Definitions  
R2-13-102. Servicing Bank Charges Account  
R2-13-103. Information Required to be Submitted with Servicing Bank's Monthly Statement

ARTICLE 1. GENERAL PROVISIONS

R2-13-101. Definitions

In this Article, unless otherwise specified, the following terms mean:

1. "Finance Division" means the Division of Finance of the Department of Administration.
2. "General Fund" means the General Fund of the State as defined in A.R.S. § 35-141.
3. "Servicing Bank" means the bank awarded the servicing bank contract pursuant to A.R.S. § 35-315(D).
4. "Servicing Bank Contract" means the contract awarded

R2-13-102. Servicing Bank Charges Account

- A. As authorized by A.R.S. § 35-315(C), General Fund interest earnings shall be deposited monthly into a General Fund account known as the "Servicing Bank Charges Account" to the extent necessary to pay for current servicing charges.  
B. Claims for servicing bank charges shall be paid from the Servicing Bank Charges Account. After each payment the Finance Division shall transfer any remaining interest earnings in the Servicing Bank Charges Account into the General Fund.

R2-13-103. Information Required to be Submitted with Servicing Bank's Monthly Statement

This Servicing Bank shall deliver to the state treasurer its monthly account analysis, statement for services rendered in the preceding month which shall include the number and type of transactions performed, amount and time duration of deposits, and any other information required under the servicing bank contract.

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TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-102  
R12-4-123  
R12-4-305  
R12-4-305  
R12-4-308  
R12-4-318  
Article 7  
R12-4-701  
R12-4-702  
R12-4-703  
R12-4-704  
R12-4-705  
R12-4-706  
R12-4-707  
R12-4-708  
R12-4-709  
R12-4-710  
R12-4-711

Rulemaking Action

Amend  
New Section  
Repeal  
New Section  
Amend  
Amend  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
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New Section

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R12-4-712

New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 17-231(A)(1) is the Commission's general rulemaking authority.

Implementing statute: A.R.S. §§ 17-333, 17-342, 17-232, and 17-345 for R12-4-102.

A.R.S. § 17-231(A)(7) for R12-4-123.

A.R.S. §§ 17-231(B)(8), 17-102, 17-301, 17-371, and 17-372, for R12-4-305.

A.R.S. §§ 17-211(D)(3) and (4) and 17-231(A)(4) for R12-4-308.

A.R.S. §§ 17-102 and 17-231(A)(2) for R12-4-318.

A.R.S. §§ 17-296, 17-297, and 17-298, for R12-4-701, R12-4-702, R12-4-703, R12-4-704, R12-4-705, R12-4-706, R12-4-707, R12-4-708, R12-4-709, R12-4-710, R12-4-711 and R12-4-712.

3. The effective date of the rules:

All rules become effective July 12, 1996, except for the following:

R12-4-102. The effective date for the amended trapping license fees and bobcat permit tag fee is designated within the Section as October 1, 1996. It had originally been proposed to become effective July 1, 1996, since A.R.S. § 17-323(E) makes trapping licenses valid from July 1 through June 30, and the bobcat permit tag fee is related to the trapping license. However, delays in the rulemaking process did not make the July effective date possible. October 1 was chosen since the trapping season does not begin until November 1, and the Department generally sells no licenses in the 1st quarter of the fiscal year anyway. The delay to October 1 will allow the Department to change procedures and publications to reflect the new fee while making a concerted effort to notify trappers of the new fee effective October 1, 1996.

R12-4-305. The effective date for this Section is designated as April 1, 1997, in order to avoid its becoming effective during an ongoing quail season and to allow adequate time to educate hunters about the new requirement.

4. A list of all previous notices appearing in the Register addressing the final rule:

R12-4-123 and Article 7 (R12-4-701 through R12-4-712):

Notice of Rulemaking Docket Opening:

1 A.A.R. 290, April 7, 1995

Notice of Proposed Rulemaking:

1 A.A.R. 1482, September 1, 1995

Notice of Public Hearing on Proposed Rulemaking:

2 A.A.R. 1224, March 15, 1996

R12-4-102, R12-4-305, R12-4-308, and R12-4-318:

Notice of Rulemaking Docket Opening:

1 A.A.R. 758, June 16, 1995

Notice of Proposed Rulemaking:

1 A.A.R. 1482, September 1, 1995

Notice of Public Hearing on Proposed Rulemaking:

2 A.A.R. 1224, March 3, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Susan L. Alandar, Administrative Services Manager

Address: Game and Fish Department DOAS  
2221 West Greenway Road  
Phoenix, Arizona 85023

Telephone: (602) 789-3289

Fax: (602) 789-3299

6. An explanation of the rule, including the agency's reasons for initiating the rule:

R12-4-102

In open meeting on May 19, 1995, the Game and Fish Commission accepted a "petition for rule" submitted pursuant to R12-4-601 by the Arizona Trappers Association. (R12-4-601 is a Commission rule authorized by A.R.S. § 41-1033, which allows any person to petition an agency requesting the adoption of a Section in a manner and form prescribed by the agency.)

The proposal is to reduce the fee for a bobcat tag from \$5 to \$2; for a resident trapping license, from \$50 to \$10; and for a nonresident trapping license, from \$250 to \$50.

In its petition, the Arizona Trappers Association provided the following as its reason for this fee reduction proposal:

"In November 1994, the voters of Arizona approved Proposition 201 which has withdrawn from the trappers of Arizona the privi-

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lege of utilizing all public lands within the state. The resulting situation is that trappers have been relegated to less than 20% of the area previously available to them.

"It is our contention that trapping licenses are cost prohibitive at their current price because of the reduction in the lands available to us and the dramatic downward spiral in the value of furs. For this reason we urge the Commission to reduce the price of trapping licenses (as described above).

"These reductions would benefit not only trappers under the current circumstances but would also benefit the agricultural industry within the state by encouraging recreational trapping on the private lands of the state's farms and ranches.

"The state itself would benefit by these license fee reductions because trappers would continue to ply their trade and a valuable wildlife management tool would not be lost."

It was pointed out by the petitioner that trappers have been steadily losing income because of the reduced value of furs over the last several years. For example: In 1987, a coyote pelt was worth \$20; bobcat, \$259; and gray fox, \$36. In 1995, a coyote pelt is worth only \$6.57; bobcat, \$45; and gray fox, \$7.50.

The Game and Fish Department, in its evaluation of the petition, provided the following information to the Commission:

"Passage of Proposition 201, amending A.R.S. § 17-301, denied the use of public lands to licensed Arizona trappers. This converts to approximately 50% of Arizona and only leaves privately owned lands and Indian (Native American) lands open to traditional trapping methods.

"The reduced fees may increase trapping effort and place the Department closer to meeting its strategic goals relative to predator and furbearer harvest and trapping recreational days."

The Department's recommendation was that the Commission accept the petition for rule. The Section designates an effective date for this change to be July 1, 1997, in order to conform to A.R.S. § 17-332(E), which states: "Trapping licenses are valid from July 1 through June 30 of the following year." This is different from the majority of all other licenses, which are valid for a "license year" and "expire on December 31."

**R12-4-123**

Pursuant to A.R.S. § 17-211(A), the Director is designated as the chief administrative officer of the Department. The Attorney General's Office has advised that even though there is specific direction and oversight given to the Director and the Department by the Commission regarding the expenditure of funds through the budget process, the provisions contained in A.R.S. § 17-231(A)(7), still need to be addressed. The statute requires the Commission to "Prescribe rules for the expenditure, by or under the control of the Director, of all funds arising from appropriation, licenses, gifts, or other sources."

R12-4-123 formalizes the processes that have been used by the Commission and the Department since the Department was created in the 1958 amendment to Title 17. The Section addresses the general authority for the Director to expend funds from all sources in compliance with all applicable laws and rules, including expenditures authorized in Commission-approved agreements and budgets, legislatively approved budgets, and from gifts (donations). Additionally, the Section stipulates that the Director shall ensure implementation of sound internal management controls of the expenditures.

Subsection (A) identifies general categories for the sources of funds (appropriations, licenses, gifts, or other sources) which are contained in the 19 fund accounts which equate to the Department's annual operating budget, as well as the donations made to the Commission and the Department. Further, the language stipulates that these funds may be expended to implement the conditions of Commission agreements with other entities (governmental and non-governmental); Department guidelines; and the expenditures from the approved budgets must be in agreement with the programs, projects, and services contained in the approved budgets that are developed as a part of the 2-year budget cycle process. With regard to donations, the Director is granted authority to expend funds as designated by the donor. If the gifts have not been given stipulations by the donors, the Director may expend the funds for public purposes which further the Department's responsibilities and duties.

Frequently, the Commission executes agreements with other entities, both governmental and nongovernmental, for the purpose of implementing activities which further benefit the activities of the Commission and the Department. In many circumstances, the conditions of these agreements require the Commission and Department to expend funds in order to accomplish desired activities, programs, or developments. The Section stipulates that the Director is authorized to expend Department funds to accomplish the purposes designated in these Commission agreements.

The Department has developed guidelines and procedures over the years to help ensure that the expenditure of funds is accomplished in a manner that is consistent with the goals and objectives of the Commission and any other stipulations, statements, and purposes directed to the Department by the Commission. One of the key guidelines that has recently been developed to provide this accountability is the "Budget Prioritization Process." This is a document approved by the Commission which includes: the Department mission statement and strategic plans; guiding statements addressing Department priorities; and ranking procedures with weighted factors to ensure that funds are allocated to programs and projects which address the Department's and Commission's priorities.

The budget requests of the Department are prepared in 2-year cycles in compliance with the legislative mandate of all state agencies. This is an involved process that begins with all of the budget units of the Department and is facilitated by the Funds Planning Unit of the Director's Office. This process entails several months of extensive input and review by the Department and culminates with a detailed presentation and review by the Department with the Commission in an open meeting in June every other year. The

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budgets are approved, with modifications as directed by the Commission, at that or a subsequent meeting and forwarded to the Governor's budget office and on to the legislature for consideration and approval. The legislature does not approve all of the budget requests that are submitted since many of the funds contained in the Commission-approved budget are non-appropriated funds. The legislature only appropriates 7 of the 19 funding authorities available to the Commission. These include: the Game and Fish Fund; Watercraft Licensing Fund; Game, Nongame Fund; Wildlife Endowment Fund; Capital Improvement Fund; Land & Water Conservation/Recreation Fund; and Waterfowl conservation Fund. Additionally, it should be noted that the Game and Fish Department is unique in that it receives no General Fund support from the legislature.

The methods of control and management of expenditures will be those accepted as the principles for governmental accounting, and those established by Arizona law and in accordance with the rules and procedures established by the State Auditor General and the Department of Administration. These methods also include periodic internal and external audits of financial management and systems done by the Department's internal audit unit, the Auditor General, and contract auditors hired by the Department to assist in strengthening financial management and control. The preparation of an annual agency financial report that is submitted to the legislature and which reports on the Department's assets, liabilities, expenses, fund balances, appropriation expenditures, capital projects/expenditures, federal fund receipts and expenditures, and revenues from the sale of licenses and other sources also contributes to ensuring the methods and control are effective.

**R12-4-305**

This Section has been repealed and "readopted" in order to restructure it for clarity. This Section has 2 objectives: First, it protects wildlife resources by preventing unlawful possession, transport, import, or export of wild mammals, birds, and reptiles. Second, it allows for lawful possession, transport, import or export by prescribing the methods for complying with governing statutes.

Changes to the Section add a new requirement that carcasses of quail be possessed or transported with a fully-feathered wing or head left attached, or with a leg with foot attached, if the current Commission order has established separate bag or possession limits for any species of quail. Another change will make it conform to a recent amendment to R12-4-302, which gives hunters the option of tagging a sandhill crane around the leg or neck.

The requirement to retain 1 fully feathered wing or fully feathered head or a foot on the carcass of quail will allow law enforcement officers to ensure that hunters have not exceeded the bag limit for Mearns quail. Without a head or wing or foot left attached, it is impossible to identify quail species.

This Section will allow the Commission to establish differential bag limits for Mearns quail. This will allow the Department to manage this species independently. There is a growing concern among the quail hunting public that Mearns quail are being over-hunted. One method of reducing harvest pressure is to reduce the bag limit.

**R12-4-308**

The purpose of the Section is to provide the Department with a mechanism to gather biological information and to aid in the enforcement of wildlife laws. R12-4-308(C)(1) provides for the establishment of procedures specific to bighorn sheep hunters.

Subsection (C)(1) has been in effect since 1953. The Section provides that the individual hunter who has been issued a big game tag for bighorn sheep is required to personally check in at a Department office, between the hours of 8 a.m. to 5 p.m., Monday through Friday, within 5 days prior to embarking on the hunting activity.

Each year the Department issues slightly in excess of 100 bighorn hunt-permit tags to hunter applicants through a random computer drawing process. These tags are sought by more than 5,700 applicants; on the average, 1,400 are non-residents. Commission Section also stipulates that no more than 10% of the applicants who are issued hunt-permit tags shall be nonresidents. Because there are such a limited number of bighorn sheep permit-tags available, they are highly sought by big game hunters. Since there are so few permits available each year and there is such a large number of hunters who desire to hunt bighorn sheep, the bag limit is only 1 bighorn sheep in the hunter's lifetime.

The majority of these hunters have contracted with licensed guides who assist them in the pursuit of the bighorn sheep. Since Department offices are open only Monday through Friday, it is necessary for these individuals to generally arrive a day early to accommodate compliance with the Section. The Commission has determined that this is a substantial inconvenience to those hunters who do not have ready access to Department offices. It has also been noted that this not only affects nonresidents, but also many residents whose access to Department offices is similarly as inconvenient.

The objective and intent of the proposed change in the Section will eliminate the need for a bighorn sheep hunter to personally check in at a Department office within 5 days preceding the hunt.

**R12-4-318**

**Method of take for turkeys.** The Commission takes very seriously the issue of hunter safety. It has established a hunter safety program that is recognized throughout the country as 1 of the best in the United States, including being recognized as the best program in the Nation for several years. The program has received many other awards.

During the period 1985 through 1994, there were 65 reported hunting-related accidents, with 4 of these occurring during the turkey seasons. One of the accidents attributed to turkey hunting resulted in a fatality caused from a hunter being shot by a .22 caliber rim-fire magnum rifle. This fatality has brought about concern regarding the safety of hunters engaged in hunting turkeys.

The amendment to R12-4-318 creates a new "Limited Weapon - Shotgun Shooting Shot" season which would restrict turkey hunters to the use of shotgun shooting shot, bow and arrow, or crossbow (other methods prescribed in the Section will apply to small

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game or other animals legal in the same season, as established in R12-4-304.)

**Article 7. Heritage Grants**  
**(R12-4-701 through R12-4-712)**

This new set of Sections formalizes the procedures currently used by the Department for the evaluation, allocation, and administration of funds for grants approved to other governmental organizations for which funding is provided from the Heritage Fund, established within A.R.S. Title 17, Chapter 2. The Sections prescribe application procedures, eligibility requirements, project evaluation processes, terms, and conditions for applicants who receive funding, and the reporting requirements for approved projects.

The need for this Article is based upon advice from the Attorney General's office, which has determined that the Commission is required to adopt Sections regarding the distribution of funds to other governmental organizations since the expenditure of these funds directly affects the general public.

In November 1990, an initiative was passed by Arizona voters to establish the Heritage Fund. The fund derives its revenue from Lottery funds, \$10 million annually to the Game and Fish Department to further the preservation and conservation of sensitive habitats and species, and to the State Parks Board and local levels of government to develop and improve recreation and trails facilities and historic preservation properties throughout the state.

A.R.S. § 17-298 specifies the purpose and percentages for expenditures from this fund. A.R.S. § 17-297 exempts the fund from appropriation and expenditures from the fund are administered by the Game and Fish Commission and are not subject to any other approval.

**Article 7. General to all Grant Categories**

R12-4-701 contains definitions relevant to this new Article. R12-4-702 contains the general provision requirements common to all Heritage Grant categories. R12-4-709 prescribes general procedures for applying for Heritage Grants and R12-4-703 the criteria for review and modification of proposals. R12-4-710 through R12-4-712 are also generally applicable.

**R12-4-701. Heritage Grant Definitions.** The Section generally defines the terms used in association with the administration of grant-in-aid functions.

"Budget Prioritization Process." This process document contains the guidelines used within the Department when the agency makes budgetary and project funding decisions. A copy of the document which fully describes this process is given to every grant applicant.

"Facilities." Though many of the projects that are considered and approved for allocation of Heritage funding by the Department are for projects which result in studies, reports, and activities, there are a significant number of projects that are for the construction of capital facilities.

"Fund." The "fund" represents the revenue source, the Heritage Fund, A.R.S. § 17-297. The statute provides that expenditures from the "fund" are not subject to appropriation by the legislature and may be used for a large variety of programs and projects to: improve the conditions of wildlife species in certain categories of endangerment and their associated habitats; enhance urban wildlife and its habitats; develop environmental education programs; and improve public access to recreation lands.

"Participant." These are the federal, state, and local units of government, including school districts who are eligible to receive funding from the "fund" and who have the contractual obligations to complete the project and to operate and maintain the facilities which have received assistance from the "fund."

The terms remaining should be self-explanatory.

**R12-4-702. General Provisions.** This Section provides requirements common to all Heritage Grant categories (specific categories are addressed in R12-4-704 through R12-4-708.)

Subsection (A) contains the Department's schedule and duties. The "Budget Prioritization Process" is defined and explained previously; the "Grant Application Manual", also provided to each grant applicant, contains detailed guidance and information helpful to applicants, and all required forms. Annualized information on project emphasis is also provided; while the criteria for eligible projects does not change, the emphasis may need to shift on the type of project in which funds may best be awarded annually. This is further addressed within R12-4-708, which requires the Department to annually provide a listing of habitat and species (as defined within A.R.S. § 17-296) which will currently be considered in accordance with biological, conservation, and management status changes.

An important stipulation stated in this Section indicates that the applicants who have failed to comply with the Sections, conditions of the participant-in-aid agreement, or who have not completed projects within the 2-year project period, will be considered ineligible to receive additional funding. The only exceptions would be if amendments granting project extensions have been approved by the Department.

It is necessary that the conditions and stipulations contained in the general provisions are known to applicants at the time they consider applying for funding support because of the obligations they assume once a project is approved for funding. In particular, applicants must fully understand their long term obligations to the projects and the intended public benefit of capital improvement projects constructed with the "fund."

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**R12-4-709. Grant Applications.** This Section prescribes application procedures. It prescribes all of the information that the applicant must include on and with the application forms provided by the Department. The information required from an applicant is critical to the evaluation of the project and effective administration of a project once approved.

Subsection (E) references the "application checklist" which lists all of the items that are required within the project application. This guidance makes it relatively simple for the applicant to comply with the Department requests for information.

Following this, the Section describes how the application forms are to be completed and what information is to be included on and with the forms. This includes detailed location maps of the project sites, site plans, if appropriate, detailed project cost estimates, and agreements or written permission from land owners or managers to enter land to conduct research.

Subsection (L) indicates that the Department will provide a list of questions that must be answered by the applicant that will assist in the evaluation of the project proposal. The criteria for these questions are within Article 7 and questions must and will fit within that criteria, but may differ to address emphasis shifting annually.

**R12-4-703. Review of Proposals.** This Section contains criteria for review and modification of proposals. It declares that the Department will consider Department priorities, as part of the "Budget Prioritization Process," to evaluate and rank all of the applications that are submitted. Since there are usually more requests than funds available, it is necessary to ensure that all projects competing for the limited funds are judged fairly.

In addition to considering the merits of a project based upon the request submitted, the Department may consider other modifications to any project application. This is done because experience has shown that many applicants do not present a clear picture of what the project is to accomplish. It also provides the opportunity to make a project viable for the year in which it was submitted versus forcing the applicant to resubmit the project in the following year.

**R12-4-710. State Historic Preservation Office Certification.**

There exists within A.R.S. §§ 41-861 through 41-864, a State Historic Preservation Act which has provisions mandating all state agencies to consider the potential impact to significant cultural resources that may result from any activities or projects undertaken by these agencies. The intent of this Section is to ensure that the compliance obligations of this statute are met by the participants prior to the transfer of grant funds by the Department. Helpful information on how to apply for this certification is provided to applicants in the "Grant Application Manual." The Department has an informal agreement with the State Historic Preservation Office resulting in an expedited administrative process for receiving and processing SHPO certification. The Department takes on some of the administrative burden for the applicant to receive the certification but the Section is necessary because the certification must still be received by the Department before the grant can be awarded.

**R12-4-711. Participant Agreements.** The intent of this Section is to identify the minimum conditions that are to be contained in the agreement between the Department and the participant receiving financial support from the "fund." Since the agreement is the legal document between the Department and the participant, it is important that it contain the necessary details regarding the scope of work/expected products, administrative stipulations for both the Department and the participant, penalties for violation of the terms of the agreement, and terms for agreement cancellation and remedies and legal obligations of the parties.

**R12-4-712. Reporting and Record Requirements.** An important consideration for the Department is adequate and timely reporting on the progress/status of projects. It is the intent of this Section to ensure timely and quality reporting by the participants to the Department, as well as ensuring that participants maintain adequate files and records for at least 5 years after completion of the project.

**Heritage Grant Categories.**

Five separate grant categories have been created based upon provisions within the governing statutes. These categories are addressed individually within R12-4-704 through R12-4-708.

**R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants.** The purpose of this category of grant is to promote or enhance wildlife and wildlife habitat in urban areas by distributing funds as provided in A.R.S. § 17-298(D). The Section restates the statutory definition essential to understanding the Section and provides specific clarifications for definition of what is considered as "close proximity to urban areas".

The Section indicates that projects funded in this program are meant to emphasize the need to conserve, enhance, and develop wildlife habitats and populations in the urban areas of the state. One of the intended benefits is to promote an increased awareness to the populace in the urban areas of the importance and benefit of wildlife to the state and to instill an appreciation of the state's wildlife. The Section specifies the details of eligible project activities and programs, including research, development of wildlife-oriented recreation opportunities, informational services, solution of wildlife and human conflicts, enhancement and restoration of aquatic and terrestrial habitats, and release of wildlife in urban settings.

**R12-4-705. Public Access Grants.** The purpose of this grant category is to enhance and develop access to public lands by distributing funds as provided in A.R.S. § 17-298(A).

It should be noted that the provision of additional or improved access to public lands may not always be in the best interest of the resource or of the recreational experience of the recreation user. Given this, projects may also be considered and approved to reduce or otherwise limit public access in order to minimize negative impacts on biotic resources to meet the Department's mission, goals and objectives.

**R12-4-706. Environmental Education Grants.** The purpose of this grant category is to promote and enhance environmental edu-



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cation activities by distributing funds as provided in A.R.S. § 17-298(E). The intent of this Section is to stimulate grants that portray wildlife issues in a balanced and fair manner which develops an awareness, appreciation and understanding of wildlife, and its environment, and to increase responsible actions toward wildlife. Strong emphasis and encouragement is placed on proposals which have an impact on Arizona schools and children.

**R12-4-707. Schoolyard Habitat Grants.** The purpose of this grant category is to promote the development of wildlife habitat demonstration and educational projects in a schoolyard environment and to develop an awareness in school children of wildlife and habitat by distributing funds as provided in A.R.S. § 17-298(D). The intent of the Section is to stimulate grants that support construction of wildlife habitat facilities or the conduct of urban wildlife programs on public school facilities. These projects must incorporate native plant and animal species, and the children in the school must be involved in the planning, development, and construction process.

**R12-4-708. IAPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat.** The purpose of this grant category is to help preserve and enhance the state's natural biological diversity by distributing funds as provided in A.R.S. § 17-298(B). The intent of the Section is to stimulate grants that address protection and preservation issues associated with sensitive habitats. The Department will annually provide a listing of sensitive habitats and species which addresses the protection and preservation priorities that are to be met through the approval of "fund" dollars to project proposals.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

**R12-4-102.** Potential loss of revenue to Department is less than \$2000. Due to loss of public land trapping and current low fur prices, it is unlikely that the decrease will result in much (if any) increase in trapping activity.

**R12-4-123.** The Section will have little or no impact as it formalizes processes already in place.

**R12-4-305.** There should be no significant economic impact as a result of this Section change, except indirect costs for implementation, education and enforcement. There may be some minimal hunter resistance to the changes but there is no added cost increase or decrease to hunters.

**R12-4-308.** Pursuant to A.R.S. § 41-1055(D)(3), the proposed rulemaking is exempt from the requirement to prepare an economic, small business, and consumer impact statement.

**R12-4-318.** There could be some negative impact to hunters who would have to change method of take and perhaps purchase new equipment in order to participate in the new limited-weapon season. It is unlikely that there would be impact on Department revenue, even with some resistance from hunters. In 1995, there were 15,913 applicants for 11,085 turkey permits (both spring and fall seasons).

**Article 7. Heritage Grants (R12-4-701 through R12-4-712).** Since the procedures which these rules address are already in place and being used by the Department, there should be no additional costs to the Department or any increases in revenue.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

**R12-4-102.** The effective date of this Section was changed from July 1, 1996, to October 1, 1996.

**R12-4-123.** Revisions were made to substitute active for passive voice.

**R12-4-305.** This Section was originally proposed for amendment, but was instead repealed and "readopted" in restructured form to make it more understandable and to eliminate redundancy. The proposed Section would have required that quail transported or possessed have a fully feathered wing or head attached. The Section as adopted adds the option of leaving a leg with foot attached, and specifies that the Section will only apply if the current Commission order establishes separate bag or possession limits for any species of quail. These changes are less burdensome to hunters. In addition, the term "evidence of legality" is now defined within the Section. The effective date of April 1, 1997, has been added.

**R12-4-308.** The Section was proposed for amendment to Subsection (C)(1), to remove the requirement for bighorn sheep hunters to personally check in to a Department office prior to hunting. However, much of the remainder of the Section was also revised to bring it into line with current standards for Section writing; changes made are to change from "passive" to "active" voice, and to clarify the Section, and are not substantive in nature.

**R12-4-318.** Revisions were made to substitute active for passive voice and make wording consistent within the Section.

**R12-4-701.** Definitions were rearranged in alphabetical order, inappropriate use of "shall" was corrected, and a definition for "Department" was added.

**R12-4-702.** Revised to substitute active for passive voice, correct improper use of the term "shall", and substitute modern for archaic words. Clarification was made relevant to use of grant funds to pay public employees. Criteria general to R12-4-704, R12-4-705, R12-4-706, and R12-4-708 was moved to this Section.

**R12-4-703, R12-4-704, R12-4-705, R12-4-706, R12-4-707, and R12-4-708.** Revised to substitute active for passive voice, correct improper use of the term "shall", and substitute modern for archaic words.

**R12-4-709.** Revised to substitute active for passive voice, correct improper use of the term "shall", and substitute modern for



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archaic words. Reference to "sponsored party" removed. Reference to a checklist of laws removed and replaced with requirement that participant secure and provide to the Department documents showing compliance with relevant laws.

**R12-4-710.** No changes were made.

**R12-4-711.** Revised to substitute active for passive voice, correct improper use of the term "shall", and substitute modern for archaic words. Provision added to allow immediate award of all grant funds when the funds must be expended in the 1st quarter. Provision added to allow continued use of equipment for public purpose or payment to the Department from sale of equipment, in the ratio equivalent to the funds provided for the purchase.

**R12-4-712.** Revised to substitute active for passive voice, correct improper use of the term "shall", and substitute modern for archaic words. Unnecessary verbiage deleted.

10. **A summary of the principal comments and the agency response to them:**

No comments were received for the following rules: R12-4-123, R12-4-701, R12-4-703, R12-4-704, R12-4-705, R12-4-706, R12-4-707, R12-4-708, R12-4-709, R12-4-710, R12-4-711, or R12-4-712. Comments were received on the following rules:

**R12-4-102. Fees for Licenses, Tags, Stamps, and Permits**

1. **Argument.** The reduction of the trapping license fee and the bobcat tag fee would probably create more trapping on private land and also help the Game and Fish Department.

**Evaluation.** That is the intent of the proposal.

2. **Argument.** The trapping license fee and the bobcat tag fee should not be reduced because the lower fees may encourage out of state trappers to trap in Arizona because our fees would be lower than many of the surrounding states. In addition, the lowered fees would mean less income for the Game and Fish Department for operation.

**Evaluation.** Advantages created by the reduction in fees is outweighed by the prohibition against trapping on public lands and the current low market for pelts; it is highly doubtful that there would be enough enticement created to encourage any new nonresident trapping. Income to the Department from sale of these licenses is already minimal and impact will be minimal.

3. **Argument.** The lowered prices of pelts would force trappers to trap more animals to maintain their income. Leaving the price high will benefit trappers as it would reduce competition among trappers.

**Evaluation.** Trapping in Arizona is recreational, not subsistence trapping; any income from this activity is supplemental only. There are very few licensed trappers and the reduction in fees is not expected to increase their numbers significantly.

**R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wild Mammals, Birds, and Reptiles**

**Issues Raised:**

1. **Argument.** Shortening quail seasons, reducing bag limits, or limiting numbers of hunters through permitting would have a negative monetary effect. Many communities and their businesses would suffer the loss of revenue generated by this sport's many participants. Implementing and enforcing these measures would also be costly. Besides shortening the season and regulating the number of hunters, any quail killed in Arizona would have to be identifiable as to its species. This would demand more enforcement and resources to do so.

**Evaluation.** Any time hunting seasons are opened, closed, or altered there is some impact on the economy. There is a process in place to address that; R12-4-609 ensures adequate notice to the public in the adoption of Commission orders, which are adopted by the Commission after considering (often extensive) public input. R12-4-305 applies only to identification of species, and does not change any quail season or any bag limit. There will be more enforcement necessary as a result of this Section change, but it will be incorporated into ongoing enforcement efforts. The Section is necessary in order to make quail identifiable in the event that the Commission does create a differential bag limit between species. Implementing this Section affords the Commission the flexibility to change bag limits and makes those bag limits enforceable.

2. **Argument.** Since the only species of quail under discussion is Mearns quail, hunters should only have to leave the foot on the quail. Mearns quail can be readily identified in that manner.

**Evaluation.** The agency agrees. Leaving the foot on a quail is less burdensome to a hunter who does not wish to leave feathers on the birds for transport. Since there is no anticipation that bag limits for any species other than Mearns quail will be changed, this is a viable option and has been added to the Section.

3. **Argument.** The Commission may decide it is not necessary to have a special bag limit for Mearns quail. In that case it should not be necessary to require special identification, just as it has never been necessary in the past when there was no differential bag limit.

**Evaluation.** Agreed. It would be unnecessarily burdensome to the hunter to have to comply with a Section which would become unnecessary should there not be a differential bag limit. The Section has been changed to specify the wing, head, or foot requirements apply only if the current Commission order has established separate bag or possession limits.

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R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks

1. **Argument.** Check-in allows the Department to perform various services for hunters. Sheep hunt areas are rugged and mountainous and in the event of a missing or overdue hunter the Department will know where to begin looking because at check-in the Department learns where hunters are going to be camped and other information. Hunters are also provided with information about the unit they will be hunting, sheep densities, and any special restrictions of land management agencies for the area.

**Evaluation.** All hunters are urged to let family members know where they will be hunting in the event a search is needed. This sort of check-in is not required with other hunts and persons are having to use up hunting time to comply with the Section; it may be a 4-hour drive just to check-in. As far as getting information about the unit, all hunters can contact the Department for this type of information prior to a hunt. There is plenty of time for them to get this information before they go hunting.

2. **Argument.** Sheep tags are highly sought after and very valuable. Check-in allows the Department to verify identification of the hunter. It is both a law enforcement tool and a very likely deterrent for persons illegally selling their tag to another.

**Evaluation.** Not that many sheep tags are issued that they cannot be verified by other means. Check-ins are not always conducted by law enforcement personnel and identification is not always verified.

R12-4-318. Seasons

Method of Take for Turkey. There were actually 2 separate rules involved in this proposal, and comments were received relevant to both. The Commission considered 2 options:

To change R12-4-304 to change the method of take for turkey in all seasons. The only legal methods of take (anytime, anyplace) would be shotgun shooting shot, archery, and crossbow. The Commission did not adopt this option. Rulemaking on R12-4-304 was terminated.

OR:

To add a new "limited weapon season" to R12-4-318. This would be a "Limited Weapon Season-shotgun Shooting Shot". Persons participating in this season could only use the following, when designated in R12-4-304 as legal for the species hunted: shotgun shooting shot, bow and arrow, and crossbow (for turkey); pneumatic weapons, falconry, slingshots, any trap except foothold steel traps, nets, hand-propelled projectiles, or capture by hand (for other wildlife in the same or concurrent season). This season (and thus the limited method of take) could be annually applied to times and places designated by the Commission.

Issues Raised:

1. **Argument.** The use of rifles during turkey hunts should not be eliminated. Instead, there should be a spring "limited weapon" season. In the spring, a hunter can call in a turkey and therefore shoot at closer range; in addition, decoys are used in spring hunts, which may be a safety concern to decoy users should rifle hunters act irresponsibly and unsafely. In fall hunts, however, there are times when the only way to harvest a turkey is through the use of a rifle. Rifles used to be the only legal method of take for turkeys, and with Arizona's many open spaces, rifles can still be a safe method of take during the fall. There should be a special limited weapon season in the spring, but the fall hunt should remain unchanged.

**Evaluation.** R12-4-304 establishes method of take for "general" seasons, and in fact is the basis of what is legal for all seasons. For instance, in general season, 1 can use all methods listed in R12-4-304; in other seasons (established in R12-4-318) 1 may be restricted to only 1 or some of those listed in R12-4-304. After reviewing the above argument and the opposing viewpoint expressed in other arguments from the public, the agency decision is that R12-4-304 should not be changed. Instead, the new "limited weapon" season should be adopted within R12-4-318. This will allow the Commission to consider the public's wishes and to respond to specific concerns about specific areas on an annual basis.

2. **Argument.** Another argument that arose in 1994 was that many fall turkey hunters also participated in the concurrently scheduled "general" tree squirrel season and some used specialized guns for this purpose. These guns are double barreled, with 1 barrel a .22 rimfire rifle and the other barrel is a shotgun. These hunters shot squirrels with the .22 and turkeys with the shotgun. Past Commissioner Woodin specifically related to this argument as she owns such a gun and suggested that the "specialty" of hunting fall turkeys and tree squirrels with these guns was analogous to muzzle loader hunting as a "specialty" and was part of the Arizona fall turkey hunting tradition.

**Evaluation.** Any change in R12-4-304 would not affect whether an individual can carry any of these weapons. The only restriction which would be created is in the lawful method of take for turkey. So the proposal would not change the described practice.

3. **Argument.** The option of creating a limited weapon season is preferable to changing method of take as it allows the option to keep a "general" fall turkey season and restrict the spring season.

**Evaluation.** The agency agrees. See also comment number 1.

4. **Argument.** As an avid turkey hunter, I have used a .22 Magnum rifle for several years, and have invested considerable money in this rifle. I personally see no reason for eliminating this type of weapon for turkey hunting. If the Commission feels this is a dangerous weapon to use with regard to hunter safety, you might as well eliminate elk and deer hunting, because you're sure not going to use a shotgun on those animals.

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**Evaluation.** See the evaluations for comments number 1 and 9.

5. **Argument.** This proposal appears to be based on safety related concern that does not show a trend of unsafe use. A single incident or even separate random incidents does not justify such a proposal. Accidents can happen with any weapon type and Arizona's Hunter Education Program has documented very few accidents without a trend for the .22 and 5mm weapon type. In fact, Arizona has very few hunter/firearm related accidents for any given weapon type.

**Evaluation.** See the evaluations for comments number 1 and 9.

6. **Argument.** Many hunters choose .22 or 5mm rimfire magnum rifles as their weapon of choice. Although I only hunt turkeys with a shotgun, I recognize the sport and expertise required to take turkeys with these weapons. Juvenile hunters and senior hunters alike may choose these weapons simply because a crossbow or traditional bow require too much physical strength and a shotgun is too powerful. This proposal (to amend R12-4-304) would effectively remove a weapon choice used for decades by a overwhelming majority of responsible hunters.

**Evaluation.** See the evaluation for comment number 1, preceding.

7. **Argument.** This proposal opens the door for increased scrutiny to any weapon used on any given species or hunt. As stated, accidents can and do occur, but relatively few occur given the total number of hunter hours spent in the field in Arizona. Does this mean if an accident occurs with a centerfire rifle during an elk hunt that we should consider prohibiting that particular weapon as a lawful weapon of choice?

**Evaluation.** This comment is similar to those evaluated previously. It is true that accidents can happen with any type of weapon. Arizona does have an excellent hunting safety record. See the evaluations for comments number 1 and 9.

8. **Argument.** Instead of a Section change, I suggest looking at alternative management objectives and continue to stress hunter safety and target recognition skills through our hunter education program. While I recognize that the Department has successfully stratified hunts in an effort to reduce or manage the number of hunters afield in any given hunt unit, a trend in accidents during turkey seasons may require that we reconsider total permit numbers in a unit.

**Evaluation.** The Department is carrying forward a recommendation to stratify seasons in the new Hunt Guidelines, which are promulgated through Commission orders rather than rules.

9. **Argument.** Most units are "accident free" so only those with documented accidents for these firearms may need readjusted. Again, do we have a trend or a few isolated and random incidents?

**Evaluation.** There is not a "trend" which would require us to alter method of take in general seasons. The suggestion is to instead selectively manage units in accordance with hunter density/safety records; this could not be done with a change to R12-4-304, but can be done by the amendment to R12-4-318 which would establish "limited weapon" seasons to be applied to specified areas.

10. **Argument.** I recognize the horrible and lasting results of any firearm related accident whether it is hunting related or not. But I oppose this change in Commission R12-3-304 since it does not and cannot prevent these types of accidents from occurring. A familiar saying is that "guns don't kill people, people do". The .22 and 5mm rimfire magnum rifle have been valid weapons of choice for turkey hunting for a long time and I hope through management and hunter safety education they will remain.

**Evaluation.** See the evaluation for comment number 1, preceding.

11. **Argument.** Only shotguns firing pellets should be legal for turkey. Safety should be considered. Even though few turkey hunters have had few accidents, the possibility exists, especially during low light levels with camouflaged hunters sitting near decoys. Shotgun only might also discourage illegal roadhunting.

**Evaluation.** See evaluations of previous related arguments. As far as discouraging illegal roadhunting, persons who roadhunt illegally generally do not care about whether they are using a legal method of take. Complying with 1 law while violating another is not usually their concern.

12. **Argument.** Most turkey hunters wear camouflage and use turkey calls and sometimes decoys to lure turkeys into killing range. Under these circumstances, safety is of paramount importance and common sense seems to dictate that game huntable with shotguns shooting shot be restricted to same. Upland birds, waterfowl and sandhill crane hunters are all restricted to shotguns or archery. Why should turkey be different? Please change the rules permanently to restrict turkey hunters to shotgun or archery.

**Evaluation.** Upland game birds, waterfowl and sandhill crane are not restricted to shotguns as a legal method of take because of safety reasons. Rather, shotgun is a "traditional" method of hunting these animals. What is a sporting tradition for these animals does not apply to turkey, which has a different status, being defined in statute as a "big game" animal. Big game are normally taken with rifles. Also, turkey are behaviorally different than the other birds addressed in this argument; turkeys are rarely shot "in the air."

13. **Argument.** In regard to converting the firearms to shotguns shooting shot, we strongly support this change. While we are concerned for hunter safety the National Wild Turkey Foundation has researched this across the country and found the shotgun shooting shot to be the cleanest and most ethical of harvest.

**Evaluation.** No documentation was offered regarding this referenced research, and the Department is not aware of any study

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on this subject. Concerning ethics, R12-4-304 has been written to depend upon the ethics of hunters for appropriate weapon choices in general seasons.

14. **Argument.** If rifles were eliminated (as a legal method of take) it might eliminate overkill in the fall.

**Evaluation.** There is no "overkill" in the fall. Harvest is regulated by the drawing process, which limits the number of permits available and therefore the number of hunters in the field. The Department's statistics reflect that hunters have basically the same success rate with both rifle and shotgun.

15. **Argument.** Rifles should not be permitted during turkey hunts if the quality of the experience is to be improved.

**Evaluation.** The "quality" of a hunt through a restrictive method of take is addressed in R12-4-318, which establishes more restrictive methods of take than those methods allowed during "general" seasons, which are established in R12-4-304. It is logical to amend R12-4-318 to add a special "limited weapon season" which could be applied to turkey, rather than amending R12-4-304 to restrict method of take in all seasons.

**R12-4-702. General Provisions**

1. **Argument.** The USDA Forest Service, Coronado National Forest, states in summary:

The Section of concern is R12-4-702(K). As written, the prohibition against paying permanent public employees from grant funds could seriously limit our ability to participate in the Heritage program and lead to very significantly high costs for any proposals we do submit.

Very often it is our permanent work force that has specific and very specialized knowledge and abilities that are acquired only after many years and are not available from outside sources.

Forest Service appropriations are quite specific. We must spend appropriated funds in accordance with direction. It is often not possible to fund Heritage project work from our annual appropriations.

This situation is especially critical for Access Heritage Grants. Close cooperation between our agencies and intimate, day-to-day-involvement of our permanent staff in all aspects of acquiring and constructing access to Forest lands is absolutely essential. Without that level of involvement, current and future access problem solving will be severely constrained.

**Evaluation.** The Section was proposed to avoid legal complications relative to paying public employees. However, upon review of this issue, it was determined that the only legal restriction upon using grant funds to pay public employee salaries is the prohibition against paying state and county employees in excess of the employee's legally established salary (A.R.S. § 38-601). By law, salaries for public employees are set, and public funds can not be used to exceed that amount. This restriction applies to any salaried employee performing functions "germane" to the employee's job duties.

Generally speaking, public employees at any level of government may not receive double pay for the same job. Therefore, the Section has been changed to ensure consistency with statutory and ethical restrictions but also permit the use of grant funds to pay compensation when necessary and appropriate.

2. **Argument.** The Section requires that applicants be "public agencies." It should also allow eligibility to non-profit organizations whose principal business is to enhance the public's appreciation of the state's natural resources and wildlife.

**Evaluation.** Heritage grants have traditionally gone to public agencies and the rules are not structured to properly address any participants other than public agencies. The agency has considered extending the grants to "non-profits" but various legal issues need to be researched 1st. Public agencies are exempt from the procurement code; as written the rules would not satisfy legal procedures under the procurement code. Also, having 2 different participant groups being treated differently creates concerns not yet addressed. After all the issues have been explored and resolved, the agency may make future amendments to Article 7 to address non-profit organization grant eligibility.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable.

12. **Incorporations by reference and their location in the rules:**

None.

13. **Was this rule previously adopted as an emergency rule?**

No.

14. **The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

R12-4-102. Fees for Licenses, Tags, Stamps, and Permits

R12-4-123. Expenditure of Funds

**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

R12-4-305. ~~Possession, Sale, Transportation, Importation, and Exportation of Carcasses of Wild Mammals, Birds, and Reptiles~~

R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wild Mammals, Birds, and Reptiles

R12-4-308. Wildlife Inspections, Check Stations, and Road-blocks

R12-4-318. Seasons

**ARTICLE 7. HERITAGE GRANTS**

R12-4-701. Heritage Grant Definitions

R12-4-702. General Provisions

R12-4-703. Review and Modification of Proposals

R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants

R12-4-705. Public Access Grants

R12-4-706. Environmental Education Grants

R12-4-707. Schoolyard Habitat Grants

R12-4-708. IIAPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat

R12-4-709. Grant Applications

R12-4-710. State Historic Preservation Office Certification

R12-4-711. Participant Agreements

R12-4-712. Reporting and Record Requirements

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

R12-4-102. Fees for Licenses, Tags, Stamps, and Permits

A. No change.

B. No change.

C. No change.

D. Stamps and special use permit fees:

1. No change.

2. No change.

3. No change.

4. Bobcat permit tag (Effective 10-01-96) \$5.00 \$2.00

5. No change.

6. No change.

7. No change.

8. No change.

E. Other license fees:

1. No change.

2. No change.

3. No change.

4. No change.

5. No change.

6. No change.

7. No change.

8. No change.

9. No change.

10. Trapping license

(Effective 10-01-96)

Resident

\$50.00 \$10.00

Nonresident

\$250.00 \$50.00

Resident juvenile

\$10.00

11. No change.

12. No change.

13. No change.

F. No change.

G. No change.

**R12-4-123. Expenditure of Funds**

A. The Director may expend funds arising from appropriations, licenses, gifts, or other sources, in compliance with applicable laws and rules, and:

1. For purposes designated by lawful Commission agreements and Department guidelines;

2. In agreement with budgets approved by the Commission;

3. In agreement with budgets appropriated by the legislature;

4. With regard to a gift, for purposes designated by the donor, the Director shall expend undesignated donations for a public purpose in furtherance of the Department's responsibilities and duties.

B. The Director shall ensure that the Department implements internal management controls to comply with subsection (A) and to deter unlawful use or expenditure of funds.

**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

~~R12-4-305. Possession, Sale, Transportation, Importation, and Exportation of Carcasses of Wild Animals, Birds, and Reptiles~~

A. ~~Evidence of legality shall accompany the carcass of any wildlife possessed or being transported until it arrives at the hunter's permanent abode or the commercial processing plant where it is to be processed. See also R12-4-117.~~

B. ~~Buffalo meat obtained under the provisions of R12-4-306 may be sold.~~

C. ~~The carcasses of wild mammals, birds, and reptiles, or parts thereof, lawfully taken in another state or country, may be imported into Arizona when accompanied by proper license, tag, or permit.~~

D. ~~Carcasses of all migratory game birds, except sandhill cranes, which are possessed or being transported shall each have 1 fully feathered wing attached until they arrive at the hunter's permanent abode or place where they are to be consumed.~~

E. ~~Each sandhill crane possessed or being transported shall have a hunt permit tag attached to its leg and either the fully feathered head or 1 fully feathered wing shall remain attached until it arrives at the hunter's permanent abode or the place where it is to be consumed.~~

F. ~~A person who has legally killed a big game animal may authorize its transportation or shipment by filling out and signing the transportation or shipping permit portion of his or her big game tag. The transportation or shipping permit is not valid for the transportation or shipping of big game taken on a resident license from a point within to a point without the state, unless accompanied by a separate Transportation and Shipping Permit issued by the Department. The following information shall be provided on the form:~~

1. ~~Species, number, and description of wildlife to be transported or shipped;~~

2. ~~Name of person who took wildlife and that person's address, license number, license class, and big game tag number;~~

3. ~~Address of destination where wildlife is to be transported or shipped;~~

4. ~~Name and address of transporter or shipper.~~

G. ~~No person shall have in his or her possession the horns of a~~

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bighorn sheep taken by a hunter in Arizona unless marked or sealed as prescribed in R12-4-308.

- H. The raw pelt of any bobcat taken in Arizona that is sold, offered for sale, or exported from the state shall have a bobcat permit tag locked through the mouth and/or eye openings so that it cannot be removed. Bobcat permit tags shall be obtained in accordance with the provisions of R12-4-307.

**R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wild Mammals, Birds, and Reptiles**

A. For the purposes of this Section, "evidence of legality" means that wildlife is identifiable as to species and legality, and that the wildlife is accompanied by any appropriate license, tag, stamp, or permit required by law.

B. A person shall ensure that evidence of legality remains with the carcass or parts of a carcass of any wild mammal, bird, or reptile the person possesses or transports, until arrival at the person's permanent abode or commercial processing plant for processing or the place where the wildlife is to be consumed. A person possessing or transporting the following shall also ensure that:

1. Big game and sandhill cranes each have the required hunt permit-tag or nonpermit-tag attached as prescribed in R12-4-302.
2. Migratory game birds, except sandhill cranes, each have 1 fully feathered wing attached.
3. Each sandhill crane has either the fully feathered head or 1 fully feathered wing attached.
4. Each quail has attached a fully feathered head, or a fully feathered wing, or a leg with foot attached, if the current Commission order has established separate bag or possession limits for any species of quail.

C. A person who has lawfully taken a big game animal may authorize its transportation or shipment by completing and signing the transportation or shipping permit portion of the tag valid for that animal. A separate Transportation or Shipping Permit issued by the Department is necessary to transport or ship to another state or country any big game taken with a resident license. The person shall provide the following information on the permit form:

1. Number and description of wildlife to be transported or shipped;
2. Name of person who took wildlife and that person's address, license number, license class, and tag number;
3. Address of destination where wildlife is to be transported or shipped; and
4. Name and address of transporter or shipper.

D. A person shall not possess the horns of a bighorn sheep, taken by a hunter in Arizona, unless the horns are marked or sealed as prescribed in R12-4-308.

E. A person selling, offering for sale, or exporting the raw pelt of a bobcat taken in Arizona shall obtain a bobcat permit tag pursuant to R12-4-307, and shall ensure that the bobcat permit tag is locked through the mouth or eye openings so that it cannot be removed.

F. A person may import carcasses or parts of carcasses of wild mammals, birds, and reptiles which have been lawfully taken in another state or country when accompanied by license, tag or permit required from that state or country.

G. Persons who obtain buffalo meat under R12-4-306 may sell the meat.

H. This Section is effective April 1, 1997.

**R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks**

A. The Department may establish wildlife check checking sta-

tions to gather biological information and to enforce wildlife laws. The Department shall publish the location, check-in requirements, and check-out requirements for a season with the published Commission order establishing the season. The location and check-in and check-out requirements of wildlife checking stations established for a particular season shall be published with the Commission order establishing that season:

1. The Department shall ensure that wildlife check stations are located in or near hunting areas. Wildlife checking stations shall be located in or near hunting areas.
2. Hunters shall personally check in at a wildlife check station before hunting in a season with a published check-in requirement. When check-in requirements are published, hunters shall personally check in at the wildlife checking station before hunting.
3. The Department shall ensure that wildlife check stations with a published check-in requirement are Wildlife checking stations which require a check-in shall be open continuously from 8 a.m. the day before the season until 8 p.m. the 1st day of the season, and from 8 a.m. to 8 p.m. during each day of the season.
4. Hunters shall personally check out after hunting in a season with a published check-out requirement, and When check-out requirements are published, hunters who are required to check out shall present for inspection any wildlife taken, display any license, tag, or permit required for taking or transporting wildlife, and give information requested concerning hunting activities.
5. The Department shall ensure that wildlife check stations with a published check-out requirement are Wildlife checking stations which require a check-out shall be open continuously from 8 a.m. to 8 p.m. during each day of the season and shall remain open until 12 noon on the day following the close of the season.

B. The Director or Director's designee may establish vehicle roadblocks at specific locations when necessary. Vehicle roadblocks are not the same as wildlife check stations. Officers at vehicle roadblocks shall direct all vehicles at a roadblock to slow or stop. Any occupant of a vehicle at a roadblock shall present for inspection upon request all wildlife in possession, display any license, tag, stamp, or permit required for taking or transporting wildlife, and give information as requested concerning hunting, fishing or trapping activities. The Department shall ensure that: In addition to those wildlife checking stations established in subsection (A), the Director or the Director's designee may establish vehicle roadblocks at specific locations when necessary:

1. The administration and operation of vehicle roadblocks are calculated to cause the least intrusion upon the public's freedom; The administration and operation of vehicle roadblocks shall be calculated to insure the least intrusion upon the public's freedom:
- a. 2. There is shall be empirical data establishing the purpose and placement of roadblocks at given locations;
- b. 3. Roadblocks are shall be for a specified limited duration;
- e. 4. There is shall be general public notification of the roadblocks and that motorists at roadblocks are informed of the purpose of the roadblock as well as informing motorists at roadblocks as to their purpose;
- d. 5. There are shall be warnings and signals, illuminated at night, set up to put motorists on notice of approaching a roadblock; and
- e. 6. There are shall be explicit written limitations on the officer's conduct at roadblocks.
2. All vehicles at a roadblock shall either be slowed or stopped. Any occupant of a vehicle at a roadblock shall



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present for inspection upon request all wildlife in possession, display any license, tag or permit required for taking or transporting wildlife, and shall give information as requested concerning hunting, fishing or trapping activities.

C. The Department shall conduct bighorn ~~Bighorn~~ sheep, bear, and mountain lion inspections ~~shall be conducted~~ at the Department's Phoenix and regional offices. These offices are open 8 a.m. to 5 p.m., Monday through Friday, except on legal state holidays.

1. All bighorn sheep hunters shall ~~personally check in within 5 days prior to hunting, and~~ personally check out within 3 days following the close of the season. Each hunter who takes a bighorn sheep shall submit the intact horns and skull for inspection and photographing. The Department representative shall affix a mark or seal to 1 horn of each bighorn sheep lawfully taken pursuant to Commission order. The mark or seal shall not be removed, altered, or obliterated.
2. A successful bear hunter shall report information about the kill to a Department office in person or by telephone within 48 hours of taking a bear. If the kill is reported by telephone, the report shall include the name of the hunter, the hunter's ~~his or her~~ hunting license number, the sex of the bear taken, the management unit where the bear was taken, and a telephone number at which the hunter can be reached to obtain additional information. In addition, the hunter shall provide a tooth from the bear ~~shall be provided~~ to the Phoenix office within 20 days after contacting the Department.
3. A successful mountain lion hunter shall report information about the kill to a Department office in person or by telephone within 10 days of taking the mountain lion.

D. This Section shall not limit the game ranger and wildlife manager's authority to conduct stops, searches, and inspections pursuant to A.R.S. §§ 17-211(D) and 17-331, or to establish voluntary wildlife survey stations to gather biological information.

E. ~~This Section is effective January 1, 1993.~~

**R12-4-318. Seasons**

- A. Methods of lawfully taking wild mammals and birds during seasons designated by Commission order as "general" seasons are designated in R12-4-304. Restrictions designated in subsection (C) ~~do shall~~ not apply to general seasons.
- B. Methods of lawfully taking big game during seasons designated by Commission order as "special" are designated in R12-4-304. "Special" seasons are open only to individuals in possession of special big game license tags issued pursuant to A.R.S. § 17-346 and R12-4-120.
- C. Other seasons designated by Commission order have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this Section. While taking wildlife:
  1. An individual ~~A person~~ participating in a "muzzleloader" season shall not use or possess any firearm other than a muzzle-loading rifle or a muzzle-loading handgun, as defined in R12-4-101.
  2. An individual participating in an "archery-only" season shall use and possess only a bow and arrow as prescribed in R12-4-304, and shall not use or possess any other weapon, including a crossbow or any other bow having devices attached to hold the bow in a drawn position, except as authorized by R12-4-216.
  3. An individual ~~A person~~ participating in a "handguns, archery, and muzzleloader (HAM)" season may only use or possess any or all of the following: a handgun (as pre-

scribed in R12-4-304), muzzle-loading rifle (as defined in R12-4-101), crossbow (as prescribed in R12-4-304), and bow and arrow (as prescribed in R12-4-304).

4. The use of dogs is prohibited during spring bear seasons.
5. An individual ~~A person~~ participating in a "bear-baiting" season shall have in possession the required hunt permit-tag and may use and possess any weapon lawful for taking bear as prescribed in R12-4-304, except that an individual ~~a person~~ participating in an "archery-only" season which runs concurrently with a "bear-baiting" season shall comply with subsection (C)(2) the provisions of subsection (C), paragraph (2) of this Section. An individual ~~A person~~ participating in "bear-baiting" season may use bait in taking bear, but shall as follows:
  - a. Ensure that bait is ~~Bait shall be of~~ biodegradable animal or vegetable matter ~~and shall be~~ contained within a single metal container not exceeding 10 gallons in volume;
  - b. Place no more than ~~A maximum of~~ 5 bait containers, ~~may be placed and each container shall be~~ clearly marked with the hunter's hunt permit-tag number;
  - c. Establish bait ~~Bait~~ locations on or after ~~shall not be~~ established prior to August 15;
  - d. Remove bait ~~Bait~~ containers and their contents ~~shall be removed~~ when no longer in use, and no later than the day following the close of the season authorized for baiting.
6. An individual ~~A person~~ participating in a "pursuit-only" season may use dogs to pursue bears, lions, or raccoons as designated by Commission order, but shall not kill or capture the quarry. An individual ~~A person~~ participating in a "pursuit-only" season shall have in possession any required tag for taking of the animal pursued, even though there shall be no kill.
7. An individual ~~A person~~ participating in a "limited weapon" season may only use or possess the following, when prescribed in R12-4-304 as lawful for the species hunted: bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled projectiles; or capture by hand.
8. An individual ~~A person~~ participating in a "limited weapon-shotgun" season may only use or possess the following, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled projectiles; or capture by hand.
9. An individual participating in a "limited weapon-shotgun shooting shot" season may only use the following, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot, bow and arrow, crossbow, pneumatic weapons, falconry, slingshots, any trap except foot-hold steel traps, nets, hand-propelled projectiles, or capture by hand.
- 10-11. An individual ~~A person~~ participating in a "limited weapon-rimfire" season may only use or possess the following, when prescribed in R12-4-304 as lawful for the species hunted: rifled firearms using rimfire cartridges; shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled projectiles; or capture by hand.
- 10-11. An individual ~~A person~~ participating in a "falconry-only" season shall be a falconer either licensed pursuant to R12-4-422 or exempted pursuant to R12-4-407, and shall use no method of take except falconry.



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~~11-12.~~ An individual A person participating in a "juniors-only hunt" shall be 14 years of age or under, and meet the requirements of A.R.S. § 17-335.

~~12-13~~ An individual participating in a "CHAMP" season shall be a challenged hunter access/mobility permittee pursuant to R12-4-217.

D. This Section is effective January 1, 1997 ~~1996~~.

**ARTICLE 7. HERITAGE GRANTS**

**R12-4-701. Heritage Grant Definitions**

In addition to the definitions provided in A.R.S. §§ 17-101 and 17-296, the following definitions apply to the rules within this Article:

1. "Approved application" means the participant's application including any changes, exceptions, deletions, or additions made by the Department prior to and for the purposes of approval.
2. "Budget Prioritization Process" means a document approved by the Game and Fish Commission based upon the Department mission statement, strategic plans, and current guiding statements which define the Department's priorities. This process is also used for prioritizing grant applications.
3. "Department" means the Game and Fish Department.
4. "Facilities" means capital improvements.
5. "Fund" means a granting source from the Game and Fish Heritage Fund, pursuant to A.R.S. § 17-297.
6. "Commission" means the Game and Fish Commission.
7. "Participant" means an eligible applicant that has been awarded a grant from the fund.
8. "Project" means an activity, or series of related activities, which are described in the specific project scope of work and which result in specific products or services.
9. "Project period" means the period of time during which all approved work and related expenditures associated with an approved project are to be accomplished by the participant.
10. "Public agency" means the federal government or any federal department or agency, Indian tribe, this state, all departments, agencies, boards, and commissions of this state, counties, school districts, cities, towns, all municipal corporations, and any other political subdivision of this state.
11. "Specific scope of work" means the units of work to be accomplished by an approved project.

**R12-4-702. General Provisions**

- A. The application deadline is the last working day of November each year and funds become available July 1 of the following year. The Department shall ensure that the "Grant Application Manual" containing application forms and instructions and the Budget Prioritization Process are available from the Department's Funds Planning Section within the Phoenix office. The Department shall also ensure that any annualized information on project emphasis for each fund is also available.
- B. Applicants shall be public agencies as defined in R12-4-701 and shall apply for Heritage grants in accordance with A.R.S. §§ 17-296, 17-297, and 17-298 and Commission rules within 12 A.A.C. 4, Article 7, in order to be eligible for consideration. Applicants who have failed to comply with the rules or conditions of the participant-in-aid agreements are not eligible for further grants if they have any project over 2 years old which has not been completed and closed, unless a formal extension has been requested and approved.
- C. The Department shall notify applicants in writing of the results of their applications and announce grant awards at a regularly scheduled open meeting of the Game and Fish Commission.

An unsuccessful applicant may submit an appeal regarding a grant award within 30 calendar days of the Commission meeting in accordance with R12-4-608.

- D. Participants shall not begin projects described in an application until they have signed a participant-in-aid agreement. Participants shall complete projects as specified in the agreement. Participants shall submit records that substantiate the expenditure of funds.
- E. The participant shall operate and maintain properties, facilities, equipment, and services for the benefit of the public for the useful life of the project.
- F. The participant shall control land or waters on which capital improvements are to be made, through fee title, lease, easement, or agreement. To be eligible for a Heritage grant, the applicant's management or control rights to the proposed site must be equivalent to the proposed investment in at least 1 of the following 3 respects:
  1. The time remaining on the use agreement is a term sufficient, in the judgment of the Department, to ensure a period of public use equal in value to the expenditure of awarded funds.
  2. The use agreement is not revocable at will by the property owner and provides for the option to renew by the managing agency.
  3. The applicant shall show evidence that public access exists to the actual site where the project is proposed, unless the purpose of the project proposal is to specifically create access or limit access.
- G. A participant shall give public acknowledgment of grant assistance for the life of a project. When a project involves acquisition, development, or renovation, the participant shall install a permanent sign describing the funding sources and dollar amounts of all funds. The participant may include the cost of this signage as part of the original project, but shall be responsible for maintenance or replacement of the sign as required. For other project types, the participant shall include funding acknowledgment on any publicly available or accessible products resulting from the project.
- H. The Department shall not accept project proposals for less than \$1000 except that environmental education and schoolyard grant proposals may be as low as \$500.
- I. The participant shall pay operation and maintenance costs, including costs for reprinting of publications or other media.
- J. The participant shall not use grant funds to pay compensation in excess of the legally established salary for any permanent public employee.

**R12-4-703. Review of Proposals**

- A. Grant proposals are competitive and the Department shall make awards on the basis of proposed projects' compatibility with priorities of the Game and Fish Department, project feasibility, merit, and usefulness. The Department shall evaluate and rank all eligible proposals pursuant to the criteria established in these rules and the Department's Budget Prioritization Process as approved by the Commission and available from the Department's Funds Planning Section.
- B. The Department may make funding of a project contingent upon revision of the proposal.

**R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants**

- A. "Urban wildlife" means the wildlife that occurs within the limits of an incorporated area or in close proximity to an urban area that receives significant impact from human use. (A.R.S. § 17-296(6)).
- B. In order to be eligible for a grant award, an applicant shall ensure that a proposed project location meets 1 of the follow-

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ing criteria:

1. It is within the corporate limits of an incorporated city or town;
2. It is within the communities of Green Valley, Flowing Wells, Sun City, or Sun City West;
3. It is within 5 miles, in straight distance, of the boundary of an incorporated area or 1 of the communities listed above.

C. In order to be eligible for an urban wildlife or urban wildlife habitat grant award, applicants shall ensure that proposed projects are designed to conserve, enhance, and establish wildlife habitats and populations in harmony with urban environments, and increase public awareness of and support for urban wildlife resources.

**R12-4-705. Public Access Grants**

A. "Public access" means providing entry to publicly held lands for recreational use where such entry is consistent with the provisions establishing those lands. (A.R.S. § 17-296(1)). Publicly held lands are those federal, public, and reserved lands, State Trust Lands, and other lands within the state of Arizona which are owned, controlled, or managed by the United States, the state of Arizona, agencies, or political subdivisions of the state.

B. In order to be eligible for a public access grant award, applicants shall ensure that proposed projects are designed to increase, maintain, or reduce public access for recreational use in cooperation with federal land managers, local and state governments, private landowners and public users, and inform and educate the public about recreational use of publicly held lands and public access to those lands.

**R12-4-706. Environmental Education Grants**

A. "Environmental education" means educational programs dealing with basic ecological principles and the effects of natural and man related processes on natural and urban systems and programs to enhance public awareness of the importance of safeguarding natural resources. (A.R.S. § 17-296(7)).

B. In order to be eligible for an environmental education grant, applicants shall ensure that project proposals are for no less than \$500 and no more than \$10,000, and that proposed projects are designed to:

1. Develop awareness, appreciation, and understanding of Arizona's wildlife and its environment and increase responsible actions toward wildlife;
2. Use Arizona wildlife as its focus and present wildlife issues in a balanced and fair manner;
3. Have impact on Arizona schools and school children.

**R12-4-707. Schoolyard Habitat Grants**

A. In order to be eligible for a schoolyard habitat grant, the applicant must be a public school within Arizona.

B. In order to be eligible for a schoolyard habitat grant, applicants shall ensure that proposed projects are designed to:

1. Encourage wildlife education on school sites or adjacent areas that allow wildlife education activities and encourage use by urban wildlife species;
2. Encourage native wildlife species, utilize a majority of native plant materials, and demonstrate water conservation techniques;
3. Actively use school children in the planning, development, and construction process, demonstrate long-term sustainability, and be fully integrated into the school curriculum.

**R12-4-708. IAPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat**

A. The following definitions are established in A.R.S. § 17-296:

1. "Habitat protection" means the process of protecting the quality, diversity, abundance, and serviceability of habitats for the purposes of maintaining or recovering populations of Arizona wildlife.

2. "Sensitive habitat" means the specific areas within the geographical area historically or currently occupied by a species or community of species in which are found those physical or biological features essential to the establishment or continued existence of the species and which may require special management, conservation, or protection considerations.

B. In order to be eligible for an IAPAM grant, applicants shall ensure that proposed projects are designed to:

1. Preserve and enhance Arizona's natural biological diversity, and
2. Incorporate at least 1 of the following elements:
  - a. Identification, inventory, acquisition, protection, or management of sensitive habitat,
  - b. Inventory, identification, protection, or management of species as addressed within A.R.S. § 17-296.

C. Each year the Department shall provide a listing of habitat and species as defined within A.R.S. § 17-296 which it will consider in accordance with biological, conservation, and management status changes.

**R12-4-709. Grant Applications**

A. In order to be eligible, an applicant shall submit a grant application in accordance with the schedule established by R12-4-702.

B. The applicant shall submit a separate application for each funding source.

C. The applicant shall submit the original plus 2 copies of each application on paper sized 8 1/2" x 11", and shall ensure that the original and the copies are legible.

D. The Department shall not accept facsimile or "fax" copies of a grant application.

E. The applicant shall ensure that the 1st page of the application is the "Application Checklist" which lists all items required within the application. The applicant shall check off an item if it is included within the application, and initial each item which is not applicable.

F. The applicant shall provide the following information on the grant application form:

1. Name of the eligible applicant;
2. Any county and legislative district where the project will be developed or upon which the project will have impact;
3. The official mailing address of the applicant;
4. The name, title, and telephone number of the individual who will have the day-to-day responsibility for the proposed project;
5. Identification of the particular grant fund from which assistance is being requested, pursuant to R12-4-704, R12-4-705, R12-4-706, R12-4-707, or R12-4-708;
6. The proposed project title incorporating the name of the site, if any and the type of work to be accomplished;
7. A clear and concise scope description and objective of the proposed project; the nature of what is to be accomplished; the methods to be used; and the desired result from the project;
8. The beginning and ending dates for the project;
9. The funding amounts that will be needed to accomplish the project, including the Heritage Grant funds requested, and evidence of secured matching funds or contributions.

G. The grant application form must be signed by an authorized agent of the public agency applying for the grant, and by signing, the authorized agent represents that the applicant has authority to enter into agreements, accept funding, and fulfill

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the terms of the proposed project.

- H. The applicant shall submit a location map clearly identifying project locations or project proposal areas; if applicable, the applicant shall also submit a site plan and floor plan.
- I. The applicant shall submit with the grant application the following information to provide evidence of control and tenure at the project site:
  - 1. If the project site is owned by the applicant, a copy of the appropriate legal document showing title in the name of the applicant and the legal description of the property;
  - 2. If the project site will be managed by the applicant, a copy of the lease, special use permit, intergovernmental agreement, or other appropriate official instrument;
  - 3. For research project proposals relating to sites not controlled by the applicant, a copy of the permit or agreement allowing the research or, at a minimum, a letter of intent from the land manager allowing the research.
- J. The applicant shall submit an estimated project cost sheet form with the following information:
  - 1. Project title as designated on the application form;
  - 2. If applicable, pre-agreement costs requested;
  - 3. If applicable, all estimated development costs in order of priority of need, facilities to be constructed, unit measurements, number of items, and total costs;
  - 4. All land parcels to be acquired listed in priority order; acreage involved; and anticipated dates of acquisition;
  - 5. The cost, title, and name of personnel who would accomplish the project objectives and who receive benefit from the grant;
  - 6. The applicant shall provide the total cost for the entire project proposal and list each of the following amounts separately:
    - a. Heritage grant funds requested;
    - b. Applicant contribution to the project, if applicable; and
    - c. Any other sources.
- K. The applicant is responsible for securing all documentation necessary to comply with local, state, or federal law, and for providing copies of all required compliance documents to the Department prior to project implementation.
- L. The applicant shall answer questions relevant to the grant applied for and to the Budget Prioritization Process by which the Department evaluates and ranks proposals.

**R12-4-710. State Historic Preservation Office Certification**  
The Department shall not release grant funds until certification is received from the State Historic Preservation Officer in accordance with A.R.S. §§ 41-861 through 41-864, the State Preservation Act, which mandates that all state agencies consider the potential of activities or projects to impact significant cultural resources.

**R12-4-711. Participant Agreements**

Prior to any transfer of funds, a participant shall agree to and sign a participant agreement, which includes the following minimum stipulations:

- 1. The participant shall use awarded grant funds solely for eligible purposes of the funding program as defined by law and as approved by the Department. The participant shall not exceed the grant allocation unless the parties amend the participant agreement.
- 2. If both parties agree that all project costs must be expended within the 1st quarter, the Department shall transfer the total amount of awarded grant funds to the participant within the 1st quarter. In all other cases, the Department shall transfer awarded grant funds, less 10%, to the participant within 1 year of the grant award. The Department shall transfer the final 10% upon receipt of a

written request and a certification of project completion from the participant, unless the participant violates state law or the participant agreement. The Department may perform completion inspections prior to release of final payment.

- 3. The participant shall deposit transferred grant funds in a separate project account carrying the name and number of the project. The participant shall expend funds from the account only as authorized under the terms of the agreement.
- 4. The participant may request changes to the terms, scope, conditions, or provisions of the agreement in writing to the Department. Requests for extension beyond the approved project period shall be submitted by the participant no later than 30 days prior to the contract expiration date. The Department shall prepare in writing any approved amendments, which must be signed by both the participant and the Department in order to be valid.
- 5. Notwithstanding subsection (4), the Department may unilaterally extend the project period by no more than 90 days when necessary to perform completion inspections or to develop an amendment for extension of the project period.
- 6. If the participant violates state law or the participant agreement, the Department may seek recovery of all funds granted and classify the participant as ineligible for Heritage Funds grants for a period not to exceed 5 years.
- 7. A participant shall operate and maintain grant-assisted capital improvements and provide reasonable protection of any project improvements.
- 8. A participant sponsoring a 3rd party or subcontractors is responsible for compliance with agreement provisions in the event of 3rd party or subcontractor default.
- 9. Participants shall use awarded grant funds solely for those costs associated with approved project work incurred during the project period.
- 10. The project period is designated to be 2 years from the effective date of the agreement unless otherwise agreed upon by the Department and the participant.
- 11. Should a balance of awarded grant funds be available upon completion of approved project elements, the participant may, with Department approval, develop additional scope elements.
- 12. The participant shall request amendments to accommodate additions or changes to the agreement in writing, stating the need and rationale for the amendments.
- 13. The participant shall use equipment purchased with grant funds for a public purpose for the useful life of the equipment, or surrender the equipment to the Department upon completion of the project. If the equipment is sold, the participant shall pay the Department the amount of any resulting proceeds in the ratio equivalent to the funds provided for the purchase.
- 14. The participant shall ensure that values of real property purchased with grant assistance are appraised by a Arizona certified appraiser within 1 year before the purchase or lease according to the Uniform Standards of Professional Appraisal Practice. The Department may select an appraiser for independent evaluation. The Department's acceptance of land conveyance documents is contingent upon approval by the Game and Fish Commission and the governor.
- 15. Failure to submit reports as required in R12-4-712 shall delay grant reimbursement or processing until the participant has submitted all past due reports.
- 16. The Department may conduct inspections to assure com-

pliance with all terms of the contract.

17. A participant shall not use grant funds for the purpose of producing income. However, the participant may engage in income-producing activities incidental to the accomplishment of approved purposes if the participant uses the activities to further the purposes of the approved project or returns the income to the original funding source designated in the agreement. The participant shall return funds remaining at the end of the project period to the Department.

**R12-4-712. Reporting and Record Requirements**

- A. Within 30 days after the end of each quarter, participants shall submit a quarterly project-status report to the Department covering activities for the quarter that just ended. Participants shall ensure that this report includes a section covering each of the following subjects:

1. Progress in completing approved work.
2. Budget.
3. Anticipated delays and problems preventing expeditious completion of the project.

- B. Participants shall account for income or interest derived from project funds in their report.

- C. Each participant shall retain and shall contractually require each subcontractor to retain all books, accounts, reports, files, and other records relating to the acquisition and performance of the contract for a period of 5 years after the completion of the contract. The Department may inspect and audit participant and subcontractor records. Upon the Department's request, a participant or subcontractor shall produce a legible copy of these records. The participant may substitute microfilm copies in place of the original records after project costs have been verified.